

-2-

IN THE CLAIMS

5. The method of automatically retracting a stabilizer leg of claim 3, including the step of:

activating an alarm device coupled with the control device and time delay mechanism by having the forward or reverse direction of the work machine selected via the control device and with the control lever in either of the retract or auto-retract positions.

REMARKS

Reconsideration of the claims is respectfully requested. Claims 1-6 and 8-18 remain in the application with claims 1,11 and 16 being independent claims. No new matter has been added by this amendment.

Claim Objections

The Examiner has objected to Claim 5, line 2 because the term "wherein" is inappropriate and should be "including". To overcome this objection, Applicants have amended Claim 5 to change the term "wherein" to "--including--". For this reason, Applicants respectfully request that the objection of Claim 5 be withdrawn by the Examiner. Further, Applicants respectfully submit that Claim 5 is in condition for allowance and such allowance is respectfully requested from the Examiner.

Claim Rejections under § 103

The Examiner rejects Claims 1-6 & 8-18 under 35 USC § 103(a) as being unpatentable over Phillips in view of Frase. In particular, the Examiner states that Phillips teaches a work machine according to Applicants' claims. However, the Examiner states that Phillips does not teach using control levers that are normally biased to a neutral position with a first position for extending the respective stabilizer leg while the lever is manually held in

Do not enter an
Appeal Brief or RCE request entry
is filed
CDB
1/9/03

-3-

the first position, a second position for retracting the respective stabilizer leg while the lever is manually held in the second position, and a retaining means for automatically retaining the lever in a third position for a predetermined period of time in order to retract the respective stabilizer leg to its fully retracted position. However, the Examiner states that Frase teaches that it is conventional to use a hydraulic control lever that is normally biased to a neutral position with a first position for extending a hydraulic cylinder while the lever is manually held, a second position for retracting the hydraulic cylinder while the lever is manually held, and a relay and timer connected to the control valve and operable therewith.

Further, the Examiner takes official notice that, in this sort of control valve, the control lever may be moved partially into the first or second positions, causing the slow or gradual actuation of the hydraulic cylinder. The Examiner also states that the control lever may be moved completely into the first or second positions & retained therein until the cylinder reaches a fully extended or retracted position. Additionally, the Examiner states that manual operation of the control lever to the partially engaged position from the completely engaged position will disengage the automatic retraction or extension of the hydraulic cylinder and return the control to the manual operation. Further, the Examiner states, that this type of control valve may have some sort of detent mechanism for retaining the valve in the completely actuated position. The Examiner states that, additionally, multiple cylinders are often actuated by a single control lever, such as the GRESEN 400 series hydraulic valve with optional three position detent mechanism.

Therefore, the Examiner states that it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a control lever of the type disclosed by Frase, on the work vehicle of Phillips because it would allow the user to fully retract the member without having to manually hold the switch in the retract position.

The Examiner has rejected Applicants' previous response and respectfully disagrees with the Applicants. In particular, the Examiner states the system of Frase et al. includes the "ability to stop the toolbar in a plurality of positions"..."to accommodate varying terrain". The Examiner continues that the "lowered position" referred to in Frase et al. does not imply that there is only one position at which the toolbar will stop, but rather that the toolbar can be stopped in a plurality of positions.

-4-

Applicants again assert that Frase does not teach or suggest the limitations as stated above by Examiner and respectfully disagrees with the Examiner. As stated in Applicants' previous response, the Frase reference is merely disclosing a power actuating means to completely lower or raise the toolbars in order to achieve a working position or a roading position, respectively. The ability to move the control levers in a manner that achieves positioning of the stabilizer leg between the fully extended and fully retracted positions and the ability to retain the control lever in the auto-retract position to automatically retract the stabilizer leg are missing from the Frase reference. Additionally, there is no incentive in the Frase reference to have such features. This is true because only raised and lowered positions are necessary for a toolbar, such as that disclosed in Frase. More importantly, using the control lever of Frase on the work vehicle of Phillips would NOT achieve the limitations as disclosed in Applicants' independent Claims 1,11 & 16 because Frase does not teach or suggest any means to achieve the limitations (and is without incentive to do so).

In particular, Applicants refer the Examiner to Column 5, lines 40-43, wherein the Frase reference is very clear that the toolbars 14 not only can pivot about a vertical axis at pin means 49 but can also pivot up or down about an inner swivel connection 50 (as shown in Fig. 6) to allow for irregularity of the road or field. Therefore, the Examiner's statement that Frase includes the "ability to stop the toolbar in a plurality of positions" ... "to accommodate varying terrain" seems inaccurate and not disclosed in the Frase reference. The Examiner should not be allowed to determine how the system of Frase "appears" to function without some teaching or incentive in the actual disclosure of that reference.

For the reasons given, Applicants respectfully submit that the combination of the prior art references does not achieve the limitations, as disclosed in Applicants' independent Claims 1,11 & 16. Further, Applicants respectfully request that the rejection of Claims 1,11 & 16 under 35 USC § 103(a) should be withdrawn. Therefore, Applicants respectfully request allowance of Claims 1,11 & 16 over the prior art of record.

Further, Claims 2-6, 8-10, 12-15 and 17-18 are dependent, either directly or indirectly, on Claims 1,11 or 16 and include additional limitations therein. Therefore, Applicants respectfully request that the rejection of Claims 2-6, 8-10, 12-15 and 17-18 under

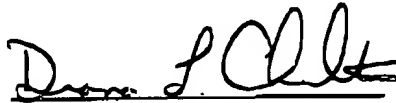
-5-

35 USC § 103(a) should also be withdrawn. Therefore, Applicants respectfully request allowance of Claims 2-6, 8-10, 12-15 and 17-18 over the prior art of record.

The prior art of record has been reviewed and is believed to be inapplicable and not pertinent to the invention as claimed by the Applicants.

It is respectfully urged that the subject application is in condition for allowance and allowance of the claims in the application is respectfully requested.

Respectfully submitted,



Diana L. Charlton
Registration No. 36,103
Caterpillar Inc.

Telephone: (309) 675-5083
Facsimile: (309) 675-1236
T:DLC/Amendments/00-318AF.doc

-6-

Marked Up Copy of Amendments pursuant to 37 CFR 1.121

Title: Pilot Hydraulic Control for a Pair of Stabilizer Legs on a Backhoe Loader Machine
Application No. 09/587,544
Attorney Docket No. 00-318

IN THE CLAIMS

5. (Amended) The method of automatically retracting a stabilizer leg of claim 3, [wherein] including the step of:

activating an alarm device coupled with the control device and time delay mechanism by having the forward or reverse direction of the work machine selected via the control device and with the control lever in either of the retract or auto-retract positions.